

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 2370 - SB 2424

February 28, 2016

SUMMARY OF BILL: Creates a new Class E felony for any assault committed against a law enforcement officer, correctional officer, guard, jailer, or other full-time employee of a penal institution, local jail, or workhouse, or a healthcare provider acting in the discharge of the provider's duty. Repeals the \$5,000 enhanced fine for assaults committed against a law enforcement officer or healthcare provider.

Increases the fine for aggravated assault committed against a correctional officer, guard, jailer, or other full-time employee of a penal institution, local jail, or workhouse to a maximum of \$15,000.

Requires the Department of Correction (DOC) to submit a report by the 13th day of each month to the chairs of the State and Local Government Committee of the Senate, the State Government Committee of the House of Representatives, the Local Government Committee of the House of Representatives, the Judiciary Committee of the Senate, the Criminal Justice Committee of the House of Representatives, the Speaker of the Senate, the Speaker of the House of Representatives, and the Comptroller of the Treasury detailing (1) the number of assaults occurring in each correctional facility during the preceding month and (2) the training plans implemented during the preceding month for any staff involved in an assault and a description of the training plans that will be offered during the following month to decrease the number of assaults.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$3,782,000/Incarceration*

Assumptions:

- Tennessee Code Annotated § 39-13-101 punishes assault as a Class A misdemeanor if it is committed intentionally, knowingly, or recklessly and causes bodily injury, or if it is committed intentionally or knowingly and causes another to reasonably fear imminent bodily injury. Tenn. Code Ann. § 39-13-101 punishes assault as a Class B misdemeanor if it is committed intentionally or knowingly and causes physical contact with another and a reasonable person would regard the contact as extremely offensive or provocative.
- The bill will enhance any assault, Class A or B misdemeanor, to a Class E felony, if it is committed against a law enforcement officer, healthcare provider acting in the course of

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the provider's duty, correctional officer, guard, jailer, or other full-time employee of a penal institution, local jail, or workhouse.

- Statistics from the DOC indicate that there were 350 incidents of assault against DOC staff in FY14-15. Statistics from the United States Department of Justice's Unified Crime Report *2013 Law Enforcement Officers Killed & Assaulted* (https://www.fbi.gov/about-us/cjis/ucr/leoka/2013/tables/table_71_leos_asltd_region_geographic_division_and_state_by_type_of_weapon_2013.xls) indicate that 1,704 law enforcement officers were assaulted in Tennessee in 2013. Statistics from the Bureau of Labor Statistics indicate that 73 healthcare workers were assaulted in 2014.
- It is assumed that 10 percent of these assaults $[(350 + 1,704 + 73) \times 0.1 = 212.7]$ will result in Class E felony admissions into DOC's custody.
- The average time served for a Class E felony is 1.47 years (536.92 days).
- According to the DOC, the average operating cost per offender per day for calendar year 2016 is \$67.73.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for 25 $(212.7 \times .1178)$ additional admissions for a total of 238 $(213 + 25)$.
- According to the DOC, 43.7 percent of offenders will re-offend within two years of their release. A recidivism discount of 43.7 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law $(238 \text{ offenders} \times .437 = 104 \text{ offenders})$.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 134 offenders $[238 \text{ offenders} - 104 \text{ (recidivism discount)}]$ serving an additional 1.47 years (536.92 days) for a total of \$36,365.59 $(\$67.73 \times 536.92 \text{ days})$. The cost for 104 offenders is \$3,782,021.36 $(\$36,365.59 \times 104)$.
- The bill will create 238 felony cases each year. However, it will also decrease misdemeanor cases by 238 cases. This represents approximately eight cases per judicial district $(238 \text{ cases} / 31 \text{ judicial districts} = 7.68 \text{ cases per district})$. It is assumed that the courts, district attorneys, and public defenders can handle the impact to their caseloads within their existing resources.
- It is assumed that increasing the fine for aggravated assaults committed against law enforcement officers, healthcare providers acting in the course of the provider's duty, correctional officers, guards, jailers, or other full-time employees of a penal institution, local jail, or workhouse will not significantly increase state revenue.
- It is assumed that the DOC can generate the report on assaults in correctional facilities within their existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/trm